

Appl. No.: 10/556,711
Amdt. Dated February 27, 2009
Reply to Office Action of November 28, 2008

REMARKS/ARGUMENTS

Claims 1-4, 6-13, 15, and 16 have been rejected, and claim 5 has been objected to.

Claims 2-6 have been cancelled without prejudice to or disclaimer of the subject matter encompassed thereby in order to further prosecution of this application. Applicants expressly reserve the right to file continuing applications or take other such appropriate measures to seek protection for the inventions encompassed by the cancelled subject matter.

Claim 1 has been amended to incorporate the limitations of claim 5. Claims 7, 8, and 10-13 have been amended to correct dependencies. Accordingly, no new matter has been introduced by way of these claim amendments.

Claims 1, 7-13, and 15-16 are currently under examination in the application.

Reexamination and reconsideration of the claims are respectfully requested in view of the following remarks. The Examiner's comments in the Office Action dated November 28, 2008 are addressed below in the order set forth therein.

Nucleotide Sequence Disclosure

The specification is objected to for allegedly failing to comply with the sequence listing requirements under 37 C.F.R. §1.821-1.825. Particularly, the Examiner has stated that sequences within Figure 1 have not been identified with SEQ ID NOS. Applicants have amended the specification to include additional text in the summary of Figure 1 which provides SEQ ID NOS. Accordingly, Applicants believe that this objection has been obviated and request that it be withdrawn.

Claim Rejections Under 35 USC §102

Claims 1, 4, 10, 15 and 16 are rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Goto *et al.* Claims 1, 7, 8, 10, 15 and 16 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Yen *et al.* Claims 1, 3, 7-10, 12, 13, 15 and 16 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 7,320,965. Because of the similarities of these rejections they will be addressed together below.

Appl. No.: 10/556,711
Amdt. Dated February 27, 2009
Reply to Office Action of November 28, 2008

Applicants have amended the claims to incorporate the subject matter of claim 5 into claim 1. All remaining claims depend directly or indirectly from claim 1 and therefore incorporate the limitations of claim 1. Because the Examiner has stated that claim 5 was considered free from the art and would be allowable if re-written in independent format, it is thus believed that the rejection has been overcome.

Claim Rejections Under 35 USC §103

Claims 1-4, 6, 7, 10, 15 and 16 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Haque *et al.* in view of GenBank Accession No. L12392, and Hammond *et al.* Claim 1 and 11 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Haque *et al.* in view of Hammond *et al.* and Schwartz *et al.* Because of the similarities of these rejections they will be addressed together below.

As described above, Applicants have amended the claims to incorporate the subject matter of claim 5 into claim 1. All remaining claims depend directly or indirectly from claim 1 and therefore incorporate the limitations of claim 1. Because the Examiner has stated that claim 5 was considered free from the art and would be allowable if re-written in independent format, it is thus believed that the rejection has been overcome.

Objection to Claim 5

Claim 5 is objected to as being dependent upon a rejected base claim. As described above, Applicants have amended the claims to incorporate the subject matter of claim 5 into claim 1. It is thus believed that this objection has been overcome.

Appl. No.: 10/556,711
Amdt. Dated February 27, 2009
Reply to Office Action of November 28, 2008

CONCLUSION

In view of the aforementioned amendments and remarks, Applicants respectfully submit that the objection to the specification and rejections of the claims and under 35 U.S.C. §§102 and 103 are overcome. Accordingly, Applicants submit that this application is now in condition for allowance. Early notice to this effect is solicited.

It is not believed that extensions of time or fees for net addition of claims are required. However, in the event that extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

/edward r. ergenzinger/

Edward R. Ergenzinger
Registration No. 47,549

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON FEBRUARY 27, 2009.